



U.S. Department of Justice
Civil Division
Washington, D.C. 20530

BY ECF

June 27, 2025

Honorable Brian M. Cogan
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Timely Publication of Temporary Protected Status Determinations
Haitian Evangelical Clergy Assn., et al. v. Donald J. Trump, in his official capacity as President of the United States of America, et al., No. 25-CV-1464 (BMC) (E.D.N.Y.)

Dear Judge Cogan:

First, the government attaches a pre-publication copy of a Federal Register Notice announcing that the Secretary of Homeland Security is terminating Haiti's designation for Temporary Protected Status (TPS), a Secretarial determination made on June 4, 2025. *See* 8 U.S.C. § 1254a(3)(A)-(B). This Notice will be published about 4 weeks after the Secretary's determination to terminate TPS for Haiti, well within the "timely basis" requirement of the TPS statute. *Id.* The Notice will extend the validity of Haitian TPS beneficiaries' documents by 60 days from the date of publication. *See* 8 U.S.C. § 1254a(b)(3)(B).

The government notes that Plaintiffs' Complaint only challenges the legality of the Secretary's February 24, 2025 partial vacatur of Haiti's designation for Temporary Protected Status. *See* Compl. ¶¶ 127-156. Thus, neither the Secretary's determination terminating Haiti's TPS determination nor the attached Notice is currently part of Plaintiffs' claim. *See Atlantic Mut. Ins. Co. v. Balfour Maclaine Int'l Ltd.*, 968 F. 2d 196, 198 (2d Cir. 1992).

Second, the government writes to provide the list of recent instances where publication of a Secretary of Homeland Security's TPS Notice in the Federal Register occurred more than four weeks after the Secretary made a written determination, as requested during the June 25, 2025 Conference before the Court. The Government has identified ten recent instances where this occurred.

No.	Country	Date of Secretary Determination	Date of Publication	Time Elapsed	Type of TPS Determination
1.	Syria	January 26, 2021	March 19, 2021	7wks	Extension & New Designation
2.	Burma	March 10, 2021	May 25, 2021	10wks, 6d	Designation
3.	Haiti	May 22, 2021	August 3, 2021	6wks	Designation
4.	Sudan	February 27, 2022	April 19, 2022	7wks, 2d	Designation
5.	Ukraine	March 3, 2022	April 19, 2022	6wks, 5d	Designation
6.	Afghanistan	March 16, 2022	May 20, 2022	9wks, 2d	Designation
7.	Cameroon	April 15, 2022	June 7, 2022	7wks, 4d	Designation

8.	Ethiopia	October 3, 2022	December 12, 2022	10wks	Extension & New Designation
9.	Somalia	January 4, 2023	March 13, 2023	9wks, 5d	Extension & New Designation
10.	Lebanon	October 16, 2024	November 27, 2024	6wks	Designation

The Department of Homeland Security identified the occurrences above by comparing the dates of signature by the Secretary on decision memoranda to the publication date of the Federal Register Notices. *See 8 U.S.C. § 1254a(b)(1)(C); (b)(2)(A); (b)(3).* Counsel for the government stated during the June 25, 2025 Conference that similar occurrences took place during several prior Presidential administrations. While this is likely accurate, the list referenced during the Conference contains examples only from the administration preceding the current one.

According to the Department of Homeland Security, a gap in time between the Secretary's TPS determination and the publication of a Notice can occur for many possible reasons, including the following:

- Foreign policy considerations surrounding the date of public announcement, regardless of whether the determination is an extension, termination, new designation, or other action;
- Department of Homeland Security officials responsible for preparing the Federal Register Notice must draft the Notice, researching and advising on legal and policy issues addressed in the Notice;
- Department of Homeland Security officials responsible for the Federal Register Notice must circulate and coordinate the Federal Register Notice among other officials in the Department of Homeland Security and with other Executive Branch officials;
- Department of Homeland Security officials responsible for preparing the Federal Register Notice must allocate their time among multiple agency actions, rulemaking projects, and other administrative law duties simultaneously with the drafting process;
- The Department of Homeland Security must submit the notice to the Office of the Federal Register for review, formatting, and publication in the Federal Register.

As the government asserted in its June 24, 2025 letter to the Court (Dkt. 58), Congress recognized that the Secretary might require flexibility as to when to publish a TPS Notice. The statute cabins this flexibility by tying the effective date of certain actions to the date of publication. *See 8 U.S.C. § 1254a(b)(3)(A-B); (d)(3).*

The Government renews its request that the Court dismiss Plaintiffs' Complaint in its entirety for lack of jurisdiction under 8 U.S.C. § 1254a(b)(5)(A) or because none of their claims are plausible on their face.

Respectfully submitted,

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